

SENATE BILL 827

By Ramsey

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 40, Chapter 30, relative to the post-conviction relief.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-234(a), is amended by deleting subdivision (33) in its entirety.

SECTION 2. Notwithstanding the provisions of Section 4-29-112, or any other law to the contrary, the post-conviction defender commission as it currently exists shall terminate and shall cease all activities on June 30, 2011.

SECTION 3. Tennessee Code Annotated, Section 4-29-234(a), is amended by adding the following new subdivision:

(_) Post-conviction defender oversight commission;

SECTION 4. Tennessee Code Annotated, Section 40-30-201, is amended by deleting such section in its entirety and substituting instead the following:

This part shall be known and may be cited as the "Post-Conviction Defender Oversight Commission Act of 2011."

SECTION 5. Tennessee Code Annotated, Section 40-30-202, is amended by adding the language "oversight" before the word commission wherever it appears and is further amended by designating the existing language as subsection (a) and by adding the following language as subsection (b):

(b) The post-conviction defender oversight commission shall be strictly administrative in nature and shall oversee budget, staffing and caseload concerns. In order to avoid possible conflicts, relating to cases assigned to the post-conviction

defender's office, no member of the commission shall advise, consult or otherwise directly assist the post-conviction defender or the post-conviction defender's staff in providing legal representation in such cases.

SECTION 6. Tennessee Code Annotated, Section 40-30-203, is amended by deleting such section in its entirety and substituting instead the following

(a) On July 1, 2011, there is created a post-conviction defender oversight commission. The members of the commission appointed under this section shall have a commitment to the constitutional rights of all individuals. Members of the commission are not required to be attorneys, but any member who is an attorney may be in private practice, a district attorney general or assistant, a public defender or assistant or a former judge. The commission is composed of the following nine (9) members:

- (1) Three (3) members appointed by the governor;
- (2) Three (3) members appointed by the speaker of the senate; and
- (3) Three (3) members appointed by the speaker of the house of representatives.

(b) The term of office of each member of the commission is four (4) years. A vacancy occurring among the members of the commission before the expiration of a term shall be filled in the same manner as the original appointments. An appointment to fill a vacancy occurring before the expiration of a term is for the remainder of the unexpired term.

(c) To stagger the terms of the commission members, the initial term shall be as follows:

- (1) The initial term of the members appointed by the governor shall be two (2) years;

(2) The initial term of the members appointed by the speaker of the senate shall be three (3) years; and

(3) The initial term of the members appointed by the speaker of the house of representatives shall be four (4) years.

SECTION 7. Tennessee Code Annotated, Section 40-30-204, is amended by deleting subsection (b) and substituting instead the following:

(b) Meetings of the commission may be held upon reasonable notice to the commission members by the chair of the commission and shall be in compliance with title 8, chapter 44.

SECTION 8. Tennessee Code Annotated, Section 40-30-205(b), is amended by adding the language "oversight" before the language "commission".

SECTION 9. Tennessee Code Annotated, Section 40-30-205(g), is amended by adding the language "including the members of the post-conviction defender's commission" in the second sentence between the language "The post-conviction defender's office" and "shall not lobby".

SECTION 10. Tennessee Code Annotated, Section 40-30-206(d), is amended by deleting subdivision (3) and redesignating remaining subdivisions appropriately.

SECTION 11. Tennessee Code Annotated, Section 40-30-210, is amended by deleting such section in its entirety and substituting instead the following:

The post-conviction defender shall keep appropriate records and make annual reports concerning caseload, funding, staffing, and salaries, to the post-conviction defender oversight commission. Provided, however, the post-conviction defender and the defender's staff shall not discuss specific details about any case with the members of the commission.

SECTION 12. It is the intent of the general assembly that the current post-conviction defender and any staff shall remain in place and continue to operate at least until the new commission has been appointed and has met. It is further the intent of the general assembly that the appointing authorities shall make their appointments by September 1, 2011, at which time the current post-conviction defender will schedule a meeting for the newly appointed commission members.

SECTION 13. This act shall take effect July 1, 2011, the public welfare requiring it.